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## DOCUMENTS

### *The Origin of the Regulation in North Carolina*

THE Regulation has been exhaustively studied, and is still something of a *cause célèbre* in North Carolina history. The origin of the movement has remained veiled in an obscurity which the diligent efforts of innumerable investigators have hitherto failed to illumine. The contemporary work<sup>1</sup> ascribed to Hermon Husband, a leader of the Regulators, opens with the statement :

In Orange County the first disturbance is generally ascribed to have arisen; but Granville and Halifax Counties were deeply engaged in the same quarrel many years before Orange. . . . For though Granville County had been at war, as it were, some years before the disturbance in Orange, yet we never heard of it till it broke out in Orange.

Researches made by the writer in the records of Granville County and the state archives at Raleigh have brought to light records and documents of crucial importance which have not hitherto been known to exist, or been available to historical students.

In his *Impartial Relation* the author, presumably Husband, quotes several passages from a manuscript, by an unknown author, generally denominated "The Nutbush Paper".<sup>2</sup> The writer has recently discovered a contemporary copy of this address in its entirety, which has been missing for almost a century and a half. It is evidently in the handwriting of the author, George Sims, and is thus acknowledged by him, as well as bearing his signature in three places.

Of the author, who when this address was written had either been in Granville County but a short time or at least had formed but few acquaintances there, almost nothing can be stated at present. The Sims family settled in Granville probably before the time of

<sup>1</sup> *An Impartial Relation of the First Rise and Cause of the Recent Differences in Publick Affairs, in the Province of North Carolina*, printed for the Compiler (1770, pp. 104). With certain slight omissions, this work was reprinted in Wheeler's *Sketches of North Carolina*, II. 301-331. The collation was made from a copy in the library of the Philadelphia Library Company. There is also a copy in the John Carter Brown Library at Providence.

<sup>2</sup> The title, as given in Wheeler, is described as mutilated; it is made out to read as follows: "A serious address to the inhabitants of Granville County, containing an account of our deplorable situation we suffer . . . and some necessary hints with respect to a reformation." It is to be observed that the copy here printed, made for Capt. Thomas Person and prefaced with some observations of the author, carries the brief title: "An Address to the People of Granville County".

its formation in 1746; in 1747 and 1748, entries in the county records refer to Sims's Road and Joseph Sims's ferry-landing on Tarr River. Henry Sims is first mentioned in the county records in 1747; and Joseph Sims, whose name occurs in the county records in 1746, qualified as captain of the Granville County militia on May 30, 1750. The first inspector of the first government warehouse in Granville County was Benjamin Sims, appointed August 31, 1749; other members of the family mentioned in the records are William Sims (1758), John Sims (1760), and Elisha Sims (1772). In 1777 Caswell County was set off from Orange, which had been formed in 1751 from Granville, Johnston, and Bladen counties. On the roll of taxpayers, listed in Caswell County in 1790, is found the name of George Sims, under the roll for "St. David's District".<sup>3</sup>

Despite the obscurity surrounding the material facts of the life of George Sims, the paper, for all its violences of prejudice and crudities in expression, is an able statement of grievances; and as an appeal to action, it indubitably exercised a powerful influence over the minds of the yeomen of Granville. It is dedicated to Captain Thomas Person, prominent figure in the Regulation movement—the one figure in that yeoman insurrection who subsequently won high place and reputation in the colony. This paper, as the first effective summing-up of the grievances of the people, was surely a proximate cause of the Regulation.

It has been only imperfectly realized that the Regulation remotely received its initial impetus from the bipartite division of authority in the colony of North Carolina, between the agents of Lord Granville and the royal governor. When Earl Granville in 1744 united with the other Lords Proprietors in surrendering to the crown the sovereignty of the province of Carolina, he alone reserved to himself all rights as owner of the soil, in his share of the grant. Fully one-half of the province of North Carolina was embraced in Granville's district; and those who occupied lands within this district were required to pay annual quit-rents. As early as 1755 a committee of the assembly formally reported on the abuses of Lord Granville's agent and his subordinates; but no action was taken. On January 24, 1759, following vigorous protests against injustices which remained unredressed, a number of citizens seized Francis Corbin, Granville's principal agent, bore him to Enfield, where he had an office, and held him in duress until he gave a bond. Especial hostility was expressed by the disaffected toward the attorney-general of the colony, Robert Jones, jr., who was

<sup>3</sup> *North Carolina State Records*, XXVI. 1262.

also a personal favorite of Earl Granville.<sup>4</sup> In his *Impartial Relation*, Husband says that when the "Nutbush paper" was circulated at a meeting of the Orange County court, August, 1767, "after we had tried to plead our own cause at the bar against extortion", "some persons who lived adjoining Granville line told us they feared that matter would ruin some of us, for that just such a case had been undertook in Granville County years ago, and that they were at law about it to that day".

The original petition by sundry of the inhabitants of Granville County, of date March 23, 1759, protests bitterly against the practice of Robert Jones, jr., in demanding exorbitant fees for his legal services, etc., and asks that he be prohibited from pleading at the Granville bar. This petition, hitherto unpublished it is believed, constitutes a fundamental document in the written history of the Regulation. The copy here presented, collated from the original records, was kindly supplied me by Dr. Thomas M. Owen, of Montgomery, director of the Department of Archives and History of Alabama. This Searcy petition was read at a meeting of the Granville County court, in the presence of the justices William Person, Daniel Harris, Gideon Macon, Thomas Person, and William Hunt. The presence of Thomas Person on the bench is to be noted. In his *Impartial Relation*, Husband says that as a result of the petition, the officers sued the subscribers for a libel, indicted the author of the paper, and imprisoned him; "which lawsuits have remained to this day" (1769). It is impossible to authenticate these statements, as the third volume of the Granville County Records, for 1759-1767, has disappeared. Below follows the petition of Reuben Searcy and others; Searcy was a prominent citizen of the county, sheriff in 1763, and afterwards clerk of the county court (1771-1783). The effect of the Searcy petition is clearly perceptible; for on May 14, 1759, Robert Jones testified under oath before the governor and council that "he had heard it was intended by a great number of rioters to petition the court at Granville to silence him, the deponent, and that if no such order was made, to pull deponent by the nose and also to abuse the court". Following a formal address to the governor by the assembly on May 15, a proclamation was issued and reputed rioters were incarcerated; but the jail was immediately broken open and the prisoners set free.

<sup>4</sup> *N. C. Col. Rec.*, V. lvii; *A Genealogical History*, by Col. Cadwallader Jones (1899), p. 2 *et seq.*; *William and Mary College Quarterly*, October, 1897, p. 121. Jones, called *Robin*, settled in Granville County as early as 1748, and during the years 1756 to 1766 served as attorney-general of the colony, alternating with Thomas Child. He was the father of Willie and Allen Jones, famous in the annals of the state. *Cf.*, for example, *Life of John Paul Jones*, vol. I., by Mrs. Reginald De Koven (New York, 1913).

Corbin's legal actions against the rioters were prudently withdrawn, and the issues temporarily settled. The rioters lived in the counties, not only of the present Granville and Halifax, but also of Vance, Warren, Edgecombe, Wilson, Nash, and Franklin. The riot at Enfield presages the breaking-up of the court at Hillsborough in 1770; the petition of Searcy is the natural precursor of the Nutbush paper of George Sims.

As the rioters at Enfield protested against the illegal practices of Corbin, and the commoners of Granville in the Searcy petition protested against the exorbitant fees of Jones, so George Sims appeals to the inhabitants of Granville to rise against the tyrannies and exactions of Benton. The taking of extortionate fees constituted the primary and fundamental grievance of the people; but in connection with the protests against Jones, it may be mentioned that the closure of Granville's office in 1765 was on all hands cited to Governor Josiah Martin in 1771 as a chief cause of the Regulator troubles.<sup>5</sup> When the people moved on to these lands, after 1765, conflicts with the colonial authorities as the result of the refusal of the people to pay taxes were inevitable.

ARCHIBALD HENDERSON.

#### I. THE PETITION OF REUBEN SEARCY AND OTHERS, MARCH 23, 1759.

To the Worshipful Court of Granville County Greeting. The Petition of Sundry of the Inhabitants of the County aforesaid. We his Majesties true and faithful subjects humbly beg leave to shew your worships that notwithstanding the many Liberties Rights and Privileges granted us by his Majesty King George the Second etc. whose subjects we are and whose person Crown and dignity we are ready and willing now and at all other times to defend and do with the greatest sincerity profess true obedience and loyalty, but Liberty that dearest of names and Property that best of charters, seems to be too much detracted, as we verily believe by the illusive insinuations of Mr. Robert Jones Jr. Therefore your Petrs. humbly pray your worships to take the same into your wise and deliberate considerations and as far as in your powers lie, redress and relieve your Petrs. with many others from his unjust impositions and exorbitancy. Therefore to proceed in the first place that eloquent Gentleman through his wiles and false insinuations to which art and chicanerie he owes his great success and high preferment in this Province that we your petitioners verily believe has not only impos'd on the inferior class of mankind but has likewise impos'd on his Excellency Arthur Dobbs Esqre.<sup>6</sup> Governor etc., of this Province together

<sup>5</sup> *N. C. Col. Rec.*, IX. 49. Cf. Bassett, "The Regulators of North Carolina (1765-1771)", in *Annual Report*, American Historical Association, 1894, p. 150, note. In 1761 Robert Jones was appointed Lord Granville's agent (Granville County Records, August 11, 1761). Jones died on October 2, 1766.

<sup>6</sup> Arthur Dobbs, a native of Ireland, was appointed governor of North Carolina by the crown and took the oath of office on November 1, 1754. In connection with the Enfield riots, Governor Dobbs was popularly credited with showing

with his Majesties' Honourable Council that notwithstanding their wise and mature considerations together with their just honest and righteous intentions for the benefit and welfare of the inhabitants of this our Province in general, yet that gentleman thro' false and unjust Representations in matters relating to our County of Granville hath prevailed on his Excellency and Honours aforesd to issue a Commission of Peace for our said County thereby leaving out of said Commission several worthy gentlemen that were very serviceable and beneficial to our said County and more especially to the upper inhabitants thereof for the lack of which magistrates or a sufficient number of such your petitioners labour under great disadvantages and inconveniences and also Justice likely to be much retarded which certainly is very disagreeable to your worships as well as petitioners. And furthermore the Legislature of the Province have in their wise and deliberate consideration allowed and stated a set fee very sufficient for an Attorney practising in our said Province to have and receive for his care and trouble in prosecuting Suits in any of our Courts of Judicature but Mr. Jones instead of the fee allow'd by law frequently demands and receives double that fee without any matter or remorse of conscience, so that it has become a general practice and custom among chief of our Attornies, and by the great volubility of speech and the superiority that he by his wiles insinuations and chicanerie as aforesd. has insinuated himself into, very frequently works on the passions of weak juries to blind their conception of Justice in order to gain his point so that men flock daily to him to commence very trivial and frivolous lawsuits which tends to the great disadvantage and prejudice of our inhabitants for all which insults and injuries your petitioners humbly beg your worships to exclude and prohibit the sd Mr. Jones from pleading at our barr for the future and your petitioners as in duty bound shall ever pray.

## II. AN ADDRESS TO THE PEOPLE OF GRANVILLE COUNTY BY GEORGE SIMS.<sup>7</sup>

"Save my country, Heaven!" shall be my Last.<sup>8</sup> Pope.

Dedicated to Capt Thomas Person.<sup>9</sup>

by his

Obt. Hmble. Servt.

G. SIMS.

TO CAPT. THOS. PERSON.

Sir.

The honour you do me by requesting a copy of my address to the inhabitants of Granville County does not raise my vanity to such a height; a friendly disposition toward the rioters. Upon his death at the age of eighty-two, on March 28, 1765, he was succeeded as governor by William Tryon, who proved singularly unsympathetic with the regulating element in respect to their alleged grievances.

<sup>7</sup> For the collation with the original manuscript, until recently hidden away in the Capitol building, I am indebted to the kindness of Mr. R. D. W. Connor, secretary of the North Carolina Historical Commission.

<sup>8</sup> Ending of epistle I. of Pope's *Moral Essays*.

<sup>9</sup> Known in history as General Thomas Person; born January 19, 1733, died November 16, 1800. Began life as surveyor for Lord Granville; sheriff of Granville County (1762), justice of the peace (1759, 1763, 1764), representative in as-

but what I am mortified down to the lowest degree imaginable, at the thoughts of granting your request. Not, because it contains any thing, either false, or criminal. I wish from my heart the facts therein related were not so notorious as they are: But the mortifying reflection is this, I wrote it for the common people to understand, and therefore took not the pains to be methodical, as I should have done, if I had known, or imagined, it would ever have come within the Scrutiny of Gentlemen. I do not intend by this Sir, to insinuate that I could write so methodically, as to stand the test of a critic, or in other words to commence author. Were I to entertain such a vain conceit, I should be afraid the very trees in the forest, rocks, hills, and vallies, would all resound the echo of that vain thought to my eternal shame and confusion. But, forasmuch as the facts treated of, whether generally, or particularly, are so notorious, and the conclusions so natural, that, it is no hard matter for me to compose a subject of this nature methodically enough to bear at least a perusal among Gentlemen, who are acquainted with my Circumstances. Because where nothing extraordinary can reasonably be expected, no great disappointment can happen, if nothing extraordinary be found. However, as I had not the presence of mind to make these reflections before it was too late, I gave you my promise, from which I cannot now in honour recind, therefore, I have this request to make, which I hope you will be candid enough to comply with; I do imagine, that you will communicate it to Gentlemen of penetration, and as I am positive, that, it will not bear criticising on; either in the orthographical, or grammatical perfections, I insist, that, at your leisure, you would correct those deficiencies, which are too egregious to bear the sight of a Critic at ten yards distance, that is if you intend to shew it to any Gentleman, who has not yet seen it. Otherwise, I do not care, since you are acquainted with the Author, you will easily look over the imperfections of the performance without censure; Since you cannot expect any accurate performance from so small abilities, which, however small, the person who is endowed with them, is proud of nothing more, than the honour of subscribing himself your very hble Servt.

G. SIMS.

N.B. I imagine it may be a matter of mirth to some Gentlemen to see my writing appear in the method of an Author, having a dedication prefixed. However let such remember, that as to the subject, I write the truth, and as to form, I write in my own Style.

I am yrs. etc. G. SIMS.

*Gentlemen,* You are chiefly strangers to me, there are very few of you, that I am personally acquainted with, and I imagine that some of you begin to wonder, what I am going to offer to a company of men that I know nothing of. However, Gentlemen, when I consider myself as a member of Granville County, I am no longer a stranger among you, but a brother of that community to which you all belong, and as such, I look

sembly for Granville 1764, 1768-1785 continuously, 1788-1790, 1793, 1794; senator in assembly 1787, 1791; elected (May 11, 1784) to Continental Congress, but never took his seat. The most vigorous democrat and vehement champion of the rights of the common people; leading Regulator and able adviser in their cause; included by Gov. Tryon in the list of those excepted from the benefit of pardon; captured and imprisoned; secured his release and was never brought to trial. Cf. sketches: S. B. Weeks, in *N. C. Booklet*, IX. 1; and T. B. Kingsbury, in *Weekly Star*, Wilmington, N. C., July 20, 1877.

upon it as my indispensable duty, to exert myself in vindication of those rights and privileges which our Constitution has endowed us with, when either persons or things endeavour to destroy them, and as this is evidently the case at this present juncture, I think it is high time we should all exert ourselves, in our defence against the common evil, which has almost overrun our land, and this is the motive Gentlemen, which induced me to desire a convention, and an audience of you, that I may lay before you, those grievances which oppress our land. Not, because you do not know it Gentlemen; but, because you do, and that by knowing it, you may the more chearfully join with me, in such methods as I shall propose, for the recovery of our native rights and privileges and to clear our country of those public nuisances which predominate with such tyrannical sway. And, I hope to see you all unanimously zealous and combine as one man to throw off the heavy yoke, which is cast upon our necks, and resume our ancient liberties and privileges, as free subjects. Who under God are governed by his august Majesty George the third, whom God preserve. And in order to explain myself on this subject, I shall undertake 1st. To explain what law is, when abstractedly considered. 2ndly. The utility or use of every human negative, and positive law. 3rdly. I shall undertake to shew the most notorious and intolerable abuses, which have crept into the practice of the law in this Country. 4thly. The mischief which necesarrily flows from, or follows the abuse of the law, and the absolute necessity there is for a reformation. 5thly. Propound such methods to effect this reformation as appears to me most probable of success. And, Lastly, I shall recommend the whole to your serious consideration, and insist that we be no longer strangers when the common evil, which we groan under, calls so loudly for our interposition. Therefore let us unite as brothers of one community, to recover our privileges, which are trampled under foot, by a handful of wretches, who are fitter for halters than Officers<sup>10</sup> of a Court. In the first place it is no hard

<sup>10</sup> Foot-note in original manuscript: "Let it be remembered that whenever I mention Officers of the Court (which is a summary comprehension of the ministers of Justice if largely taken) I mean no more than, Clerks, Lawyers, and Sheriffs, and not the Wpl. members of the Bench, whose authority I revere, and hold them in the highest veneration."

The particular objects of the distrust of the inhabitants of Granville County were Robert Jones, attorney-general of the colony and agent of Lord Granville; and Samuel Benton, colonel of the Granville County militia, and clerk of the county court; but other county officers and lawyers generally were complained against. There are certain conspicuous exceptions to those in bad odor with the disaffected. Among the "worshipful members of the bench" (justices of the county court) during the period referred to, who, in the language of Sims, were "revered" and "held in the highest veneration", were Thomas Person, Reuben Searcy, Gideon Macon, and Richard Henderson. For Thomas Person, *cf.* note 9 *supra*. Reuben Searcy was the author of the trenchant protest against Robert Jones, jr. Gideon Macon, an emigrant from Virginia, was the father of the democratic statesmen, Nathaniel Macon, the friend and intimate of Jefferson. Richard Henderson was a young attorney whose "amazing talents and general praise had not created him a single enemy"; in appointing him to the highest court in the colony, the governor in a letter to the Earl of Shelburne said of him that he lived among a people who "will be happy at having such a distinction paid to one who resides among them, and for whom they entertain an esteem." (*N. C. Col. Rec.*, VII. 697.) Later, protests were made in both Orange and Granville against sheriffs who were grossly in arrears in their accounts. Conspicuous exceptions were Thomas Hart, who, as sheriff of Orange, was proved to have been "not a farthing out in his accounts" (*N. C. Col. Rec.*, VIII. 233); and Samuel Henderson, sheriff of Granville, to whom, upon examination of his accounts, the county was found to be in arrears and the account was allowed (Granville County Records, June 19, 1759).



matter to explain what law is; neither is it very material to my purpose whether I explain it or not; but as I promised to do it, and, because it may in some sort give us an idea of laws in general, and their obliging power; I shall explain it in the words of the learned Mr. Dawson,<sup>11</sup> who in his treatise of the origin of law, Says, That law is the rule of acting, or not acting, laid down by some intelligent being, having authority for so doing. This, Gentlemen, though it is short, yet it is a comprehensive description of all laws, whether divine or human, whether natural or revealed, negative or positive. And, without entering into definitions of particular laws, or tedious observations on the nature and property of Laws, I shall descend to the second proposal which was to shew the general utility or use of laws. And I may venture to affirm that the laws of all well regulated Societies will aptly fall under one of these three general heads or divisions. 1st. To secure men's persons from death and violence. 2ndly. To dispose of the property of their goods and lands. And 3rdly. For the preservation of their good names from shame and infamy. Under one of these three general heads, I say the laws of all well regulated societies will aptly fall; The further any system of law deviates from these great and general ends, the nearer it approaches to those systems of law, which are the productions of despotism and tyranny. But we are the people Gentlemen, who have the happiness of being born under one of the most perfect forms of government in the known world. We are a part of that stupendous whole, which constitutes the glorious, and formidable kingdom of Great Britain. The Sceptre of which is swayed by his present Majesty, George the third, of the royal house of Hanover, and right heir to the crown, and royal dignity, according to a Protestant succession, settled by an act of parliament in the reign of Queen Ann of blessed Memory. We are the subjects, I say, of this august monarch, who in conjunction with the united power and authority of the Lords spiritual, Lords temporal, and house of Commons, maintain and uphold this inimitable System of law, which his royal ancestors, and their predecessors, have from time to time enacted, and established for the safety of his kingdom, and the benefit of his leige subjects, by securing our person from death and violence: By disposing of the property of our goods and lands, and by providing methods for the preservation of our good names from shame and infamy. All these privileges, Gentlemen, we dare to call our own, under the protection of that (almost) immutable system of law, which is confirmed by the triple combined authority of the King, Lords, and Commons, as you have heard before and transfered by them to all his Majesty's plantations in North America, and else where as a model to form their laws by, and as a touchstone to try the validity of such laws, as shall be enacted by any Legislative power, within his Majesty's extensive Dominions.

This, Gentlemen, is the inexhaustible fountain, the source whence we draw our claims to these privileges that our situation as free subjects undoubtedly entitles us to, And that we may be provided with such laws, as the particular circumstance of our province, may from time to time require.

We have an assembly, which somewhat resembles that grand tripartite conjunction of the King's authority, Lords, and Commons. Here we have a Governor, Council, and an Assembly of Representatives chosen

<sup>11</sup> George Dawson, *Origo Legum; or, a Treatise of the Origin of Laws, and their Obliging Power* (London, 1694).

by the populous<sup>12</sup> to enact laws for the benefit of the Commonwealth, as occasion may require in conformity to the laws aforesaid. And I suppose, they have answered those ends, or whether they have, or have not, is a matter, which I shall not now undertake to determine. However, we have a set of laws peculiar to this Province, for a System I cannot call them, because they are mostly temporary and subject to change.

There is none that I know of, if they were honestly complied with, that would not answer the end intended by our great Legislature at home; except, it be some petit private acts in favour of some particular persons, who by false insinuations and sinister practices have obtained the same, which, I shall treat of in their proper places. Well, Gentlemen, it is not our mode, or form of Government, nor yet the body of our laws, that we are quarrelling with, but with the malpractices of the Officers of our County Court, and the abuses which we suffer by those empowered to manage our public affairs; this is the grievance, Gentlemen, which demands our solemn attention, and in order to make it evident, I shall according to my promise in the third place shew the notorious and intolerable abuses which have crept into the practice of the law in this county, (and I do not doubt in the other counties also, though that does not concern us). In the first place, it is well known, that there is a law which provides that a lawyer shall take no more than 15/ for his fee in the County Court. Well, Genl. which of you have had your business done for 15/ ? Do not the Lawyers exact 30s for every cause, and 3, 4, or 5 pounds for every cause that is attended with the least difficulty? Yes: they do Gentlemen, and laugh at our stupidity and tame submission to these damned extravagancies. And besides the double fees, which they exact from you, do they not lengthen out your lawsuits, by artifices and delays, so long as they perceive you have any money to grease their fists with? And numberless other devilish devices to rob you of your livings in a manner diametrically opposite to the policy of our State, and the intention of our Legislature. I dare engage for you all, Gentlemen in the affirmative, I believe there is none here at present, but what must acknowledge that this is exactly the Case. Well, Gentlemen, if there were no more public evils, this, alone is sufficient [in] a little while to ruin our County in these litigious times. But hear another evil greater by far, if possible.<sup>13</sup> Mr Benton in his former, and in his

<sup>12</sup> Populace.

<sup>13</sup> First heard of in Granville County, N. C., on January 2, 1752, when he produced his commission as justice of the peace. On July 6, 1756, he was in prison and refused to serve when appointed justice of the peace (*N. C. Col. Rec.*, V. 591); acted as justice of the county court in the years 1752-1755, 1763, 1764, and perhaps at other times; colonel Granville County militia, 1765; clerk of the court from 1765 until the time of his death shortly prior to April 17, 1770; representative in the general assembly from Granville County in 1760, 1761, 1762 (April and November), 1764-1765, 1766-1768. The Granville County Records show him to have been prominent and active in county affairs, notably as commissioner for the erection of a court house, gaol, stocks, and whipping-post. At various times he presented bills for his services against the county, running up into hundreds of pounds. He was the grandfather of Thomas Hart Benton, the famous statesman, who was born (March 14, 1782) near Hillsborough, on the old road to Haw River, about half a mile from the river Enoc, where stood the mill of Thomas Hart. Samuel Benton's son, Jesse, the father of Thomas Hart Benton, was a representative in the assembly in 1781, lieutenant-colonel of militia, and accompanied Judge Richard Henderson on his journey over the Wilderness Road to Kentucky in 1775. Cf. the erroneous account of Thomas Hart Benton's forbears in the biography by W. M. Meigs (Philadelphia, 1904).

present capacity, is a subject worth a particular scrutiny. View him but in his former, and then view him in his present capacity, and make an estimate of the services he has done you, in requital for the favour you did him by taking him out of prison, or what was next door to it, and sending him Burgess. He was universally esteemed a person calculated for what is called a poor mans Burgess, and indeed he has proved a poor mans Burgess, he forgot that you sent him to do your business, Gentlemen, his mind (like his eyes) is turned inward, and all his transactions below have been for the benefit of that dear self of his, which is so much in his own good graces, that he is plundering his County to enrich that dear object! You had a great deal of reason, I acknowledge, Gentlemen, to imagine that a person who had suffered by the malpractices of others would make a benevolent patriot, when in a public capacity; but how much have probabilities deceived you; judge ye!

He is Colo. Benton, now chief Officer in our military affairs, he is Clerk Benton, chief Clerk of our County Court, in which double capacity I believe, Gentlemen, there is None [of] us that envies him, but in the execution of his office. I beleive there are none of us that have the good of the Commonwealth at heart, but must resent the usage he gives us here. The Clerks tell us their is no law to ascertain their fees, and therefore they are at liberty to tax our bills as they please, and the misfortune is Gentlemen, that we are obliged to pay it, be it what it may; I think, Gentlemen, if there be no law to ascertain the Clerk's fees, there is no law to compel us to pay any fees at all. However, let us see what advantage Benton the poor mans Burgess makes of this deficiency in our law, if you give a judgment Bond for five pounds only, and this Bond goes into Court, the Clerk for only entering it on the Court docquet and issuing an Execution, charges you with forty one shillings and five pence, I had it from Benton's own mouth, at which time he vapoured as high, and with the same confidence that a fighting gamester has, who is endowed with courage of a highwayman, with oaths and execrations that he had taken it and would take it.

However, Gentlemen, I hope you will disappoint him, I am determined till he produces law that shews me what the fees are, to pay no fees at all, and I hope you will all follow the example, and see where Benton will get his obliging power to compel us to pay them. All these abuses are founded upon so false a basis, that [the] least resistance will overturn the whole mass. For, where there is no law, there is no transgression in not complying with the arbitrary demands of a lawless Officer, and where the law gives a right, the same law will give a remedy, when this law is violated, and that our rights and privileges are violated in the highest degree is manifest, not only from what has been said, but from the daily practices of our Officer. It is time, and high time, Gentlemen, that we should endeavour to save our sinking County from the impending ruin, which will be the necessary consequence of these cursed practices. I told you Gentlemen, I would undertake to sum up the abuses, which have crept into the practice of the law in this County. I have indeed undertaken it, but if my paper would permit, I am positive your patience would not. To say all that might be said on this subject alone would fill a large volume; therefore, I must abridge the catalogue, that I may perform my promise in other particulars; but remember by the way, the hardships that we suffer by building the courthouse etc. for Benton to bring grist to his own mill: But I shall treat of this subject with an instrument prepared to regulate this hardship.

And therefore I shall proceed to the 4th proposal, which was to shew the mischief that naturally flows as a consequence from these cursed practices, and whatever I say Gentlemen, to illustrate this melancholy subject. Need I mention one instance to set forth the misery which we groan under? Does not daily experience shew us the gaping jaws of ruin, open, and ready to devour us? Are not your lands executed, your negroes, horses, cattle, hogs, corn, beds, and household furniture? Are not these things, I say, taken and sold for one tenth of their value? Not to satisfy the just debts which you have contracted; but to satisfy the cursed exorbitant demands of the Clerks, Lawyers and Sheriffs. Here they take your lands which perhaps are worth four or five hundred pounds, and sell them at public vendue for about forty or fifty pounds. And who buys? Why the same villians who have taken your negroes and other personal estate, and have the County's money in their hands. This has furnished them with money to buy off the rest of your livings, at the same rates as you have heard. It is reasonable Gentlemen, that these Officers should be allowed such fees, as may give them a genteel maintenance, but then is it reasonable that they should rob the County to support themselves in such damned extravagancies, and laugh at us for being such simpletons as to suffer it? No: Gentlemen, there is no reason that I know of; except they want to reduce us down to that despicable state whence they rose, and a pitiful estate it was, Gentlemen. There were none of our arbitrary Governors, whose descent were not as obscure, and dispicable, as their transactions in a public capacity have been base and illegal. But it is a received maxim among the unhappy subjects of electoral Dominions, that they have the most to fear from a King who hops from the dunghill to the throne. But to return from my disagreeable digression, let us make an estimate of the difference between getting our livings by honest industry and getting them by these cursed practices. We will suppose ourselves all to be men, who labour for our livings, and there is a poor man among us, who has dealt for about 4 or 5 pounds in such things as his family could not possibly do without, and in hopes of being spared from the lash of the law till he can sell some of his effects to raise the money; he gives a judgment bond to his Merchant, and before he can accomplish his design his bond is thrown into Court, and Benton the poor mans Burgess has it to enter on the Court docquet and issue an execution the work of one long minute. Well, Gentlemen, what has our poor neighbour to pay Mr. Benton for his trouble? Why, nothing but the trifling sum of forty one shillings and five pence. Well he is a poor man, and cannot raise the money. We will suppose Mr. Benton condescends to come to terms with him. Come (says he) and work. I have a large field and my corn wants weeding (or something like that). I will give you  $1/6$  a day, which is the common wages of a labourer in these times till you pay it off because you are a poor man, and a neighbour I will not take away your living. Well how many days work has our honest neighbour to pay Mr. Benton for his trouble and expense in writing about a minute? Why, he must work something more than 27 days before he is clear of his clutches. Well the poor man reflects within himself. At this rate says he when shall I maintain my own family. I have a wife and a parcel of small children suffering at home and I have none to labour but myself, and here I have lost a month's work and I do not know for what, my merchant not yet paid, I do not know what will be the end of these things;

however, I will go home, and try what I can do towards getting a living. Stay neighbour, you must not go home, you are not half done yet, there is a damned Lawyers mouth to stop before you go any further, you impowered him to confess that you owed £5., and you must pay him 30/ for that, or, else go and work nineteen days for that pick-pocket at the same rate, and when that is done, you must work as many days for the Sheriff, for his trouble, and then go home and see your living wrecked and tore to pieces to satisfy your merchant.

Well Gentlemen, if this were the case, would it not be a melancholy thing? But it is worse by ten degrees than any thing that you have yet heard. It is not a persons labour, nor yet his effects that will do, but if he has but one horse to plow with, one bed to lie on, or one cow to give a little milk for his children, they must all go to raise money which is not to be had. And lastly if his personal estate (sold at one tenth of its value) will not do, then his lands (which perhaps has cost him many years toil and labour) must go the same way to satisfy these cursed hungry caterpillars, that are eating and will eat out the bowels of our Commonwealth, if they be not pulled down from their nests in a very short time, and what need I say, Gentlemen, to urge the necessity there is for a reformation. If these things were absolutely according to law, it would be enough to make us turn rebels, and throw off all submission to such tyrannical laws. For, if these things were tolerated, it would rob us of the very means of living, and it would be better for us to die in defence of our privileges, than to live slaves to a handful of Scape-gallows, or perish for want of the means of subsistence. But, as these practices are diametrically opposite to the law, it is our absolute duty, as well as our Interest, to put a stop to them, before they quite ruin our County. Or, Are become the willing slaves of these lawless Officers, and hug our chains of bondage and remain contented under these accumulated calamities? No, Gentlemen, I hope better things of you, I believe there are very few of you, who have not felt the weight of their Iron fists and I hope there are none of you, but what will lend a helping hand towards bringing about this necessary work. And in order to bring it about effectually, we must proceed with circumspection, not fearfully, Gentlemen, but carefully, and therefore, it will be necessary to mention certain rules to be observed in our proceedings. And first, let us be careful to keep sober, that we do nothing rashly; but act with deliberation. Secondly, Let us do nothing against the known and established laws of our land, that we may not appear as a faction endeavouring to subvert the laws, and overturn our system of government. But, let us appear what we really are, To wit, free subjects by birth, endeavouring to recover our native rights according to law, and to reduce the malpractices of the Officers of our Court down to the standard of law. For, we must remember that it is not the Body of our laws, we are fighting with, this would be the highest folly, since it is the known established law of our land, that is a bulwark to defend those privileges, which we are contending for, except there be any late private acts, that favour them in these devilish practices, if there be any such law, I say, Gentlemen, it deviates from the use of the law, which I cited to you in the beginning and consequently derogatory from the System of the laws of England, and so we are bound by no authority to submit to them, but there are no such laws that I know of. Thirdly, Let us behave ourselves with circumspection to the Worshipful Court inasmuch as they

represent his Majesty's person, we ought to reverence their authority both sacred, and inviolable, except they interpose, and then Gentlemen, the toughest will hold out longest. Let us deliver them a remonstrance, setting forth the necessity there is for a suspension of court business, till we have a return from the Governor, in answer to the petition, which we shall send to his Excellency on the occasion. The remonstrance to their Worships, and the petition to his Excellency I have ready drawn, which I shall communicate to you after I have made my last proposal, which is this, I promised that the last paragraph should be a recommendation of the whole to your serious consideration, and insist upon some points necessary to be concluded on; but as all that has been said is so self evident, and the matter so important, that I am in hopes, you have all considered the subject, and made such conclusions as may inspire a resentment against the abuses which we suffer, therefore, my proposal is this, I am a stranger, I say to the chief of you. I have not moved in these matters out of any vain ostentation, or any private pique that I have against any of our arbitrary Governors, but a true zeal for the good of my County, was the only motive, which induced me; neither do I desire the preeminence in any thing among you, I am a stranger, I say, therefore it may be, that you have not that confidence in me, which you can repose in some of your acquaintances whose resolution you know will answer the end of these undertakings. If so Gentlemen, name the man, I will be the first on his list to follow him through fire and water, life and death if it be required in defence of my privileges, and if you choose me for your leader I can do no more. Here I am this day with my life in my hand, to see my fellow subjects animated with a spirit of liberty and freedom, and to see them lay a foundation for the recovery thereof, and the clearing our County from arbitrary tyranny.

God save the King

Nutbush<sup>14</sup> Granville County

6th June 1765.

<sup>14</sup> A settlement on Nutbush Creek, which runs through the northern part of what is now Vance and Warren counties, formerly Granville County.